

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

RHYIAN SZPILA, M41279,)	
)	
Plaintiff,)	
)	
vs.)	
)	Case No. 24-cv-2501-DWD
WARDEN GALLOWAY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

DUGAN, District Judge:

On December 17, 2024, the Court denied Plaintiff's motion to proceed in forma pauperis (Doc. 2) after it determined that he failed to disclose his status as 'struck out' by the terms of 28 U.S.C. § 1915(g). (Doc. 6). Plaintiff was directed to pay the full filing fee of \$405 by January 16, 2025, and he was warned that failure to do so would result in the dismissal of his case. (Doc. 6); *see also* Fed. R. Civ. P. 41(b); *James v. McDonald's Corp.*, 417 F.3d 672, 681 (7th Cir. 2005) (under Rule 41(b) a court has authority to dismiss an action for failure to prosecute if a party does not provide a timely response to a court order). To date, the Court has not received Plaintiff's filing fee, or any other correspondence. Based on Plaintiff's failure to pay the fee or to communicate with the Court, Plaintiff's case is now dismissed for failure to prosecute. The Clerk of Court is **DIRECTED** to enter judgment accordingly, and to close this case.

The filing fee was incurred at the time the case was filed, so the Clerk of Court is **DIRECTED** to collect the \$405 fee. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this Order, he must file a notice of appeal with this Court within thirty days of the entry of judgment. [FED. R. APP. P. 4\(a\)\(1\)\(A\)](#). If Plaintiff chooses to appeal, he will be liable for the \$505.00 filing fee irrespective of the outcome of the appeal. *See* [FED. R. APP. P. 3\(e\)](#); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-56 (7th Cir. 2008). Moreover, if the appeal is found to be nonmeritorious, Plaintiff may incur a “strike” under [28 U.S.C. § 1915\(g\)](#). A proper and timely motion filed pursuant to [Federal Rule of Civil Procedure 59\(e\)](#) may toll the 30-day appeal deadline. [FED. R. APP. P. 4\(a\)\(4\)](#). A [Rule 59\(e\)](#) motion must be filed no later than 28 days after the entry of judgment, and this 28-day deadline cannot be extended.

IT IS SO ORDERED.

Dated: February 6, 2025

/s David W. Dugan

DAVID W. DUGAN
United States District Judge